



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Request that City Join Amicus Brief in Souza v. City of Antioch, a case before the Court of Appeal.

MEETING DATE: April 3, 1996

PREPARED BY: Deputy City Attorney

RECOMMENDATION: That the city join the amicus brief for Souza v. City of Antioch, a case before the Court of Appeal.

BACKGROUND:

For purposes of information, *amicus curiae* briefs are filed in various actions which involve matters of wide ranging concern to provide information and additional argument to the court.

This case arose when the City of Antioch Police Department responded to a call for service involving an individual who had become despondent over a domestic dispute and barricaded himself in his home with his children. The perpetrator, Joel Souza, threatened to harm the children and after a 12-hour standoff with police negotiators, made good on those threats by killing the children and himself. The surviving wife now claims that the negotiations were negligently conducted.

The relevant issue addressed by this case is as follows:

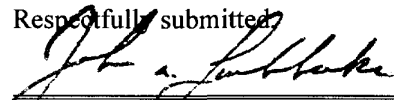
When a police officer undertakes a hostage negotiation strategy, are those activities related to the negotiations "discretionary acts" such that the officer will be afforded qualified immunity.

The trial court has granted summary judgment in favor of the City of Antioch and the case has been appealed by the plaintiff. This case is important in that it appears to be the first case in California which will address police officer immunity in the area of hostage negotiations. A verdict against the City in this case could greatly impact the ability of police officers to effectively negotiate with barricaded suspects by setting a precedent that police officers can be held liable when they fail to convince a barricaded suspect to surrender peacefully.

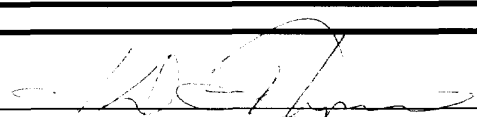
Chief Hansen concurs in this recommendation.

FUNDING: Not applicable.

Respectfully submitted,


John M. Luebberke, Deputy City Attorney

APPROVED: _____


H. Dixon Flynn -- City Manager